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August 18, 2008

The Honorable Robert M. Gates
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Gates:

I write today to express my deep concern with the current timeline for the revised request for proposal (RFP) for the KC-X tanker replacement program and urge you to provide more time for the competitors to fully evaluate the criteria of the new solicitation to ensure that they can offer bids that can meet the updated needs of the program and our Air Force.

As you well know, the Air Force took over 10 months to make a selection in the KC-X program that was ultimately found to be deeply flawed by the Government Accountability Office (GAO). In sustaining Boeing's protest of the Air Force's selection decision, the GAO found that the Air Force made a number of significant errors that affected the outcome of what was a close competition between Boeing and Northrop Grumman/EADS. These errors - including failing to judge the bids based on the Air Force's own evaluation criteria, making significant mistakes in the life cycle costs of the two aircraft and the conduct of misleading and unequal discussions with Boeing - have led many to believe that this flawed selection process may have chosen the wrong aircraft.

That is why I welcomed your announcement last month that your office, through Under Secretary John Young rather than the Air Force, would rebid the tanker contract and announce the results at the end of the year. It was my sincere hope at that time that this new review would not simply be a rubberstamp of the original flawed selection process and instead provide a truly fair and unbiased assessment of the two aircraft. I expressed this concern directly to Secretary Young in his appearance before the House Armed Services Committee on July 10, 2008, where I urged him to ensure that "we're really not dealing with the same umpire making the same call."

Since then, however, I have grown increasingly concerned that the draft RFP that was provided to the two companies presents revised criteria, coupled with an overly aggressive timeline, which could once again tilt the outcome. According to the Department, the proposed timeline provides bidders 45 days to submit revisions to their proposals once the final revised FRP is issued and gives the Department until the end of

the year to make its selection. If the Department had made the decision simply to clarify their solicitation per the GAO's critiques and reevaluate them based on the criteria of the original RFP, I could understand the use of an accelerated four month timeframe for completing the process. However, the Department has instead chosen to revise the terms of the new RFP to increase the size of the desired tanker from their original request – a decision that not only appears to favor one competitor over the other, but also leaves little time for competitors to revise their bids to meet to new stated needs of the program.

As a member of the House Armed Services Committee, I understand the clear and urgent need to move forward in replacing our KC-135 fleet. However, the Department of Defense and Congress cannot let that urgency trump the deliberate and even-handed evaluation that an acquisition of this size demands. Regardless of which company ultimately wins the KC-X contract, it is absolutely critical that Congress, the American taxpayer and our Airmen have total confidence that the new tanker meets the needs of our Air Force and was selected through a fair evaluation of the two bids.

I am very concerned that proposed timeline for completion of the revised final RFP is simply inadequate for a full and through evaluation of the bids by the Department of Defense, nor does it offer a chance for both competitors to submit bids in line with the revised terms of the KC-X solicitation. To this end, I strongly urge you to provide more time for the new RFP to be vetted by the competitors and allow members of Congress to both fully understand how the new RFP meets the needs of our Air Force and answer the many remaining unanswered questions we have about the new solicitation and the KC-X selection process as a whole.

Secretary Gates, I appreciate the difficult situation that the Department finds itself in its third attempt to move forward in the replacement of our aging tankers. However, I trust that you agree with me on the clear need to finally get this right in a way that eliminates remaining doubts about the process and gives us all the confidence that the right tanker for our Air Force was ultimately chosen.

Sincerely,



JOE COURTNEY
Member of Congress